

Remarks

The preamble of elected Claim 1 recites:

"A method for forming vias through an interlayer dielectric region ..." [emphasis added]

and abbreviates reference to said interlayer dielectric region as "ILD". Paragraphs (a) and (d) of elected Claim 1 make antecedent reference to the "material of the ILD" [emphasis added]. Per established case law, such antecedent reference causes the preamble to be an integral limitation within the claim rather than a mere statement of possible purpose. (It is not a method for forming vias, for example, through an interlayer dielectric region.)

The basis for rejection argues that the methods of Group I could instead be used for forming vias through "a conductive region of a monolithically integrated device" [last line of paragraph 2, of page 2 of the restriction, emphasis added].

It is respectfully submitted that this rationale is in error because the preamble of elected Claim 1 clearly directs its subject matter towards "forming vias through an interlayer dielectric region ..." [emphasis added]. The restriction should be withdrawn.

A comparison of method Claim 1 and device claim 27 shows the following commonalities:

Point	Feature	Method Claim 1 (Group I)	Device Claim 27 (Group II)
(1)	"monolithically integrated device"	Preamble	Preamble
(2)	"interlayer dielectric region (ILD)"	Preamble, paragraphs (a) and (d)	Paragraphs (b) and (c)

Point	Feature	Method Claim 1 (Group I)	Device Claim 27 (Group II)
(3)	"Anti-Reflection Coating layer (ARC layer)"	Paragraphs (a), (b) and (c)	Paragraphs (c), (d) and (c.1)
(4)	"photoresist layer", "first openings"	Paragraph (b)	Paragraph (d)
(5)	"second openings", "extending through the ARC layer", "inwardly-tapered sidewalls"	Paragraph (c)	Paragraph (c.1)

Thus it is seen that a common prior art search will have to be conducted for these overlapping commonalities. This can be done and without placing "serious burden on the examiner" (quoting MPEP §803(B)).

On the other side of the scales of justice, a great burden will be placed on the Applicant if forced to pay twice and wait twice for having overlapping subject matter examined twice. MPEP §803 is cognizant of the burdens placed on Applicant as well as those placed on the examiner. MPEP §803 (Restriction - When Proper) states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. [emphasis added]

Request for Change of Restriction

In view of the above it is requested that the restriction lines drawn between Groups I and II be lifted. A telephone call to the below attorney is requested if it will help expedite processing of the application.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2257 for any matter in connection with this response,

including any fee for extension of time and/or fee for additional claims, which may be required.

Respectfully submitted,

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I hereby certify that this correspondence is being facsimile transmitted to (571) 273-8300 and addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 31, 2005.



10-31-05

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Date of Signature

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